RAJYA SABHA

Wednesday, the 24th August, 2005/2 *Bhadrapada,* 1927 *(Saka)*

The House met at eleven of the clock,

MR. CHAIRMAN in the Chair.

ORAL ANSWERS TO QUESTIONS

New Commission to look into Centre-State relations

*401. SHRI T.T.V. DHINAKARAN: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that Government have proposed to set up a new Commission to look into the Centre-State relations;

(b) if so, the reasons therefor;

(c) the draft terms of reference of the Commission; and

(d) whether the States have been consulted in the matter?

THE MINISTER OF HOME AFFAIRS (SHRI SHIV RAJ V. PATH): (a) Yes, Sir. The Government has decided to set up a new Commission to look into the Centre-State relations.

(b) and (c) In terms of its commitment made in the Common Minimum Programme, the Government has decided to set up a new Commission to look into the issues of Centre-State relations keeping in view the sea-changes that have taken place in the polity and economy of India since the Sarkaria Commission last looked at these issues over two decades ago. Pursuant to this decision, the Government had constituted **a** Group of Ministers (GOM) for finalizing the Terms of Reference (TOR) of the Commission. As per the TOR since finalised by the GOM, the Commission would examine and review the working of the existing arrangements between the Union and States as per the Constitution of India and various

pronouncements of the Courts in this regard; address the growing challenges of ensuring good governance for promoting welfare of the people, strengthening the unity and integrity of the country. Besides, the Commission will also make recommendations on the role, responsibility and jurisdiction of Centre *vis-a-vis* States during major and prolonged outbreaks of communal violence, caste violence or any other social conflict leading to prolonged and escalated violence; planning and implementation of mega projects; effective devolution of powers and autonomy to various local bodies; practice of independent planning and budgeting at district leveljinking central assistance with the performance of States; positive discrimination in favour of backward states; fiscal relations between centre and states; levying duties on goods and services in the emerging tax regime; freeing inter-state trade to establish a unified and integrated domestic market; setting up a Central Law Enforcement Agency; supporting legislation under Article 355, etc.

(d) No, Sir.

SHRI T.T.V DHINAKARAN: Sir, it is a fact that many recommendations of the Sarkaria Commission, particularly relating to the delegation of powers to the States, have not been implemented so far. Therefore will the hon. Minister assure the House that such recommendations of the Sarkaria Commission will be implemented without waiting for the Report of the new Commission?

SHRI SHIV RAJ V. PMIL: Sir, majority of the recommendations of the Sarkaria Commission have been implemented. The Sarkaria Commission had given 247 recommendations. Out of 247 recommendations, 179 recommendations have been implemented. The Government has not accepted 63 recommendations, and five recommendations are pending with the Government. We are discussing the recommendations with the State Government to find out as to how they can be implemented.

SHRI T.T.V DHINAKARAN: Sir, it is surprising that the states have not been consulted on this matter. The Group of Ministers has already finalised the Terms of Reference of the new Commission without ascertaining the views of the States. I want to know whether the Government has any proposals to consult the States before referring the matterto the new Commission; and if so, when the consultation is likely to be made?

SHRI SHIV RAJ V. PATIL: Sir, matters of this nature are decided at the national level. We have a mechanism of consulting the Chief Ministers also. Inter-State Council is the forum where the Chief Ministers are consulted, and this issue, formally or informally, has been discussed with them. Moreover, once the commission is appointed, any Government, anybody or any person can put its or his views before the Commission for its discussion, and the Terms of Reference are omnibus. So, you can include anything you want to include in the representation which you will make to this Commission for consideration.

SHRI NILOTPAL BASU: Sir, the hon. Minister has given quite a long list of the Terms of Reference according to which various issues are going to be examined by the new Commission which the Government is proposing to set up. Some of the issues e.g. linking Central assistance with the performance of States, fiscal relations between Centre and States and setting up a Central Law Enforcement Agency, as stated by the hon. Minister in the end of paragraph, had already been at length deliberated by the States in the Inter-State Council. They were earlier resolved. The question of transfer of Centrally sponsored schemes particularly, which pertain to the State List, should be transferred to the States along with the funds. These were issues which were decided by the National Development Council. How is the Government proposing to set up a new Commission with all this agenda, without having implemented all those issues which were settled earlier? It is very strange!

MR CHAIRMAN: But it has not been implemented till now.

SHRI SHIV RAJ V. PATIL: Sir, we have to understand what is the role of the National Development Council and how do we look at the recommendations made by the National Development Council. That is one thing.

Then, there is the Inter-State Council. It also considers. The third is that there are certain other issues which he has read out. Now, on the deployment of Union Forces in the States under article 355, discussions have taken place and people have expressed their views differently. They are at tangent with each other. Sometimes, it is said that the Government of India has the authority to deploy the forces even without invitation in any State to control disturbances in the State. At the same time, others have said that this kind of authority is not available to the Government of

India. Article 355 is silent on this point. If this issue has been raised, if it has not been finally resolved and if people have expressed their views differently, should we not allow a Commission to apply its mind to an issue of this kind as well as the other issues which he has stated?

As far as transfer of projects from the Union Government to the State Governments is concerned, may I put before this House that the three lists, the Union List, the State List and the Concurrent List, are very clear on this point. Any subject which is in the State List is exclusively in the jurisdiction of the State. But in any subject which is in the Concurrent List, generally, the Government of India does not interfere. The Government of India allows...*(Interruptions)*...

SHRI NILOTPAL BASU: Will you, Sir, yield for a moment? I specifically mentioned about those Centrally-sponsored schemes which are operating in sectors which are the part of the State List. ...*(Interruptions)*...

MR. CHAIRMAN: You please take your seat...*(Interruptions)*...

SHRI SHIV RAJ V. PAUL: I would like to know which are those schemes. *(Interruptions)*...

SHRI NILOTPAL BASU: There are 356 Centrally-sponsored schemes. Out of the 356 schemes, 200 Centrally-sponsored schemes... *(Interruptions)*...

SHRI SHIV RAJ V. PATIL. Let me speak.

SHRI NILOTPAL BASU:.. actually belong to the State Governments. Take land...*(Interruptions)*...

MR. CHAIRMAN: You take your seat..*(Interruptions)*...

SHRI SHIVRAJ V. PATIL: In one minute I can explain this. *(Interruptions)*...

SHRI NILOTPAL BASU: ...which is absolutely a State subject on which the Centre is having a number of Centrally-sponsored schemes. It was decided unanimously in the NDC that funds under these schemes would be transferred to the States. It has not been implemented.

SHRI SHIVRAJ V PATIL: Sir, power is in the Concurrent List; Irrigation is in the Concurrent List. *(Interruptions)*...

SHRI NILOTPAL BASU: I am talking about. *(Interruptions)*...

MR. CHAIRMAN: You focus particularly on this subject. I know that this matter has been discussed in the Planning Commission and the National Development Council.

SHRI SHIVRAJ V. PAUL: I am trying to understand what matter has been discussed. I am trying to understand which kind of schemes he means. That is why I am explaining.

MR. CHAIRMAN: All Centrally-sponsored schemes.

SHRI SHIVRAJ V. PATIL: Sir, there are different kinds of Centrally-sponsored schemes. The Railways is a Centrally-sponsored scheme. *(Interruptions)*...

MR. CHAIRMAN: No, no.

SHRI SHIVRAJ V PATIL: The atomic energy is a Centrally-sponsored scheme. Power generating stations are Centrally-sponsored schemes. Irrigation projects are Centrally-sponsored schemes. The National Highways are Centrally-sponsored Schemes. The National Highways, the Railways and the Airways are with the Union Government.

As far as power generation is concerned, ...*(Intenuptions)*...

MR. CHAIRMAN: I think, he is not talking about power generation.

SHRI SHIVRAJ V. PATIL Sir, I should know to what I have to reply. I am willing to reply to it. I have said that land is entirely within the jurisdiction of the State List. *(Interruptions)*...

SHRI NILOTPAL BASU: That is right. Therefore, any Centrally-sponsored scheme which pertains to land should be transferred to the States along with the funds. *(Intenuptions)*...

MR. CHAIRMAN: Please take your seat. *(Interruptions)*... Please take your seat. *(Intenuptions)*,,.

DR. KARAN SINGH: Sir, let us have a separate discussion on this. *(Interruptions)*...

SHRI SHIVRAJ V PATIL: Sir, I will be very happy, if a debate is allowed on this subject...*(Interruptions)*...

MR. CHAIRMAN: That will be all right.

SHRI SHIVRAJ V. PATIL: ...because land is entirely within the jurisdiction of the State. Tenancy laws cannot be made by the Union Government. Ceiling laws cannot be made by the Union Government. If you have to construct a dam on a land, that land is acquired from the State Government. *(Interruptions)*...

SHRI NILOTPAL BASU: I know all that. *(Interruptions)*...

MR. CNAIEMAN : That is right. टीक है, ठीक है । Mr. Shahid Siddiqui.

श्री शाहिद सिद्दिकी : सभापति महोदय, सेंट्रल-स्टेट रिलेशन्स में जिसकी वजह से तकलीफ आई है, वह गवर्नर के रोल का राजनीतिकरण है । जस्टिस सरकारिया कमीशन ने भी इसके ऊपर काफी रिकमण्डेशन्स दी थी, खासतौर पर गवर्नर के अपाइंटमेंट के सवाल पर । चूंकि अपाइंटमेंट का जो मामला है, उसकी वजह से राजनीतिकरण हुआ है, उसकी वजह से काफी दिक्कतें पिछले पचास सालों में और खासतौर पर हाल के दिनों में सामने आई है । मैं, माननीय मंत्री जी से जानना चाहता हूं कि जो नया कमीशन होगा, उसके टर्म्स ऑफ रेफरेंस में गवर्नर के अपाइंटमेंट के सवाल पर जो रिकमण्डेशन्स आती रही है राजनीतिक सर्कल से, उसके लिए कोई इंडिपेंडेंट, इस तरह की कोई बॉडी हो, जो उसके राजनीतिकरण को रोक सके, क्या इस पर आप कुछ करने वाले है, कोई उनको रिकमंडेशन्स देने वाले है ?

شری شاہد صدیقی: سبھا پتی مہودے ، سینٹرل اسٹیٹ رلیشنس میں جس کی وجہ سے تکلیف آئی ہے وہ گورنر کے رول کا راجنیتی کرن ہے۔ جسٹس سرکار یہ کمیشن نے بھی اس کے اوپر کافی رکمنڈیشنز دی تھیں، خاس طور پر گورنر کے اپاؤنٹمنٹ کے سوال پر۔ چونکہ اپاؤنٹمنٹ کا جو معاملہ ہے۔ اس کی وجہ سے راجنیتی کرن ہوا ہے۔ اس کی وجہ سے کافی دقتیں پچھلے پچاس سال میں اور خاس طور پر حال کے دنوں میں سامنے آئی ہیں۔ میں مانئےمنتری جی سے جاننا چاہتا ہوں کہ جو نیا کمیشن ہوگا، اس کے ٹرمس آف ریفرینس میں گورنر کے اپاؤنٹمنٹ کے سوال پر جو رکمنڈیشنز آتی رہی ہیں راجیہ تک سرکار سے، اس کے لئے کوئی انڈ پینڈینٹ ، اس طرح کی کوئی باڈی ہو، جو اس کے راجنیتی کرن کو روک سکے، کیا اس پر آپ کچھ کرنے والے ہیں، والے ہیں، کوئی ان کو رکمنڈیشنز دینے والے ہیں؟

† Transliteration of Urdu Script.

श्री शिवराज वी. पाटिल : चेयरमैन साहब, गवर्नर के संबंध में, राज्यपाल के संबंध में सरकारिया कमीशन ने अपनी रिपोर्ट दी थी और उस रिपोर्ट के ऊपर पिछली सरकार ने, एनडीए सरकार ने विचार किया । उसके बाद उस रिपोर्ट पर, इंटर-स्टेट काउंसिल जो क्रिएट की गयी है, उसके अंदर भी विचार किया गया । इंटर-स्टेट कांउसिल ने और पिछली सरकार ने भी यह कहा है कि गवर्नर के संबंध में जो सरकारिया कमीशन की रिपोर्ट है, उसके ऊपर अमल करना योग्य नहीं होगा । यह उनका रिकमेंडेशन है और आज वही परिस्थिति है । आज ऐसा देखा जाता है कि किसी गवर्नर को क्यों बुलाया, करके पूछा जाता है और किसी गवर्नर को क्यों वहां पर रहने दिया, करके पूछा जाता है । इस प्रकार वह राजकीय क्षेत्र बन जाता है और उसके गवर्नेंस में मुश्किल आती है । इसके बावजूद मैं यहां कहना चाहता है कि हमने जो टर्म्स ऑफ रेफरेंसिज़ दिए है, उनके अंदर गवर्नर का भी प्रश्न हमने छोड़ा है । अगर कोई नया रिकमेंडेंशन इस संबंध में इस कमीशन से आएगा तो वह इंटर-स्टेट काउंसिल भी देखेगी, गवर्नमेंट भी देखेगी और शायद हमारा लेजीस्लेचर भी ...(**व्यवधान**)...

श्री शाहिद सिद्दिकी : क्या अप्वाइंटमेंट का सवाल टर्म्स ऑफ रेफरेंस में है ?

شری شاہد صدیقی: کیا اپاؤنٹمنٹ کا سوال ٹرمس آف ریفرینس میں ہے-

श्री सभापति : माननीय मंत्री महोदय, मैं यह जानकारी करना चाहूंगा कि सरकारिया कमीशन ने गवर्नर्स की अप्वांइटमेंट में मामले में कहा था, 'विद दी कन्सेंट ऑफ दी स्टेट गवर्नमेंट ।' यह इंटीग्रेशन काउंसिल में गया, सब-कमेटी बनी थी, उसमें गया । कंसलटेशन शब्द उसमें एडजस्ट किया गया कि कंसल्ट कीजिए । लेकिन कंसलटेशन इफेक्टिव हो, उस इफेक्टिव कंसलटेशन का अभी तक पालन नहीं हो रहा है ।

श्री शिवराज वी. पाटिल : श्रीमन्, यह जो स्टेटमेंट है, आपकी तरफ से आ रहा है और हमारे लिए उसका जवाब देना बड़ा मुश्किल होता है –हां कहना या न कहना । ...(**व्यवधान**)...

श्री सभापति : आप कहिए ।

श्री शिवराज वी. पाटिल : लेकिन मैं यह कहना चाहता हूं कि कंसलटेशन का और कनकरेंस का अर्थ अलग-अलग जगह पर अलग-अलग तरीके से लगाया गया है । मैं सम्माननीय सदन के सामने और आपके सामने भी यह कहना चाहता हूं कि जब कोई जज अप्वाइंट होता है तो उसकी अप्वाइंटमेंट के लिए कंसलटेशन करना जरूरी है, ऐसा कहा गया है लेकिन उस कंसलटेशन का अर्थ जो लगाया गया है, वह करकरेंस लगाया गया है और सरकार, जो भी अर्थ उन्होंने लगाया है, उसको शिरोधार्य मान्य करके काम कर रही है । यहां पर सवाल यह है कि कनकरेंस का मतलब क्या है, कंसलटेशन क्या है और इफेक्टिव कंसलटेशन का मतलब क्या है ? इफेक्टिव कंसलटेशन का मतलब तो अपने सबजेक्टिव तरीके से कोई भी इंटरप्रेट करेगा । कोई कहेगा कि

यह सही है, कोई कहेगा कि सही नहीं है । इस प्रकार इसके ऊपर भी चर्चा होनी आवश्यक है लेकिन मैं यह बात मानता हूं कि इसके ऊपर स्पष्ट नहीं है, सब लोगों के मन में । थोडा सा राज कारण इसमे आ जाता है जिसकी वजह से यह अधिक आस्पष्ट हो जाता है। फिर भी हमने कहा है कि कमीशन इन सारी चीजों को देखे और हमें बताए, यानी जो भी सरकार हो उसे बताए कि किस प्रकार से कदम उठाने चाहिए ।

SHRI SHANTA RAM LAXMAN NAIK: Mr. Chairman, Sir, obviously, after the report comes, there will be some recommendations which may be acceptable to the Government and some recommendations may not be acceptable to the Government. In order to effectively implement the acceptable recommendations,—there are several options before the Government; the Government can just say that these are the recommendations which are acceptable and there are certain recommendations which are not acceptable—I would like to know whether the Government would amend the constitutional and statutory provisions to give actual effect to the acceptable recommendations.

SHRI SHIVRAJ V. PAUL: Sir, if the Government accepts the recommendations given by the Commission relating to the amendment of the Constitution or the statutory provisions, those amendments are introduced in the legislature and they are inducted into the Constitution or the Statute Book. But if the Government does not accept the recommendations, then it is not done.

SHRI RG. NARAYANAN: Mr. Chairman, Sir, while we are talking of Centre-State relations, the finances of State Governments are in a very bad shape. Notwithstanding the recommendations of successive Finance Commissions, the State Governments are called upon to provide all the basic necessities from health, education, sanitation, drinking water and roads to other infrastructure facilities. It is time the Centre gave up its stranglehold over the divisive pool of taxes.

Sir, will the Centre consider steps to improve the financial conditions of the States by allowing devolution of funds to the extent of, at least, 50 per cent of the divisible pool of taxes to them?

SHRI SHIVRAJ V. PATIL: Sir, this is a very important question raised by the hon. Member, and this has been discussed in many fora. And, it has not been always possible to come to agreements as to how this should be done. There are two things which we have to consider. There

are States which are having the capacity to raise their revenue, and there are States which are not having the capacity to raise their revenue. When the funds come to the Union Government's coffers, these are distributed according to the recommendations given by the Finance Commission, and the Finance Commission keeps in view as to how to bring about equality in development between the States. And there, it becomes very difficult to return the funds to financially powerful states in proportion to their contribution to the Government's coffers. Otherwise, the weaker States do suffer. But this is an issue which is referred to the Commission. This is an issue which is considered by the Finance Commission every five years, and this is an issue which has been discussed here also. But this is an issue which does deserve greater and deeper consideration.

SHRI V. NARAYANASAMY: Hon. Chairman, Sir, the hon. Minister of Home Affairs has identified some areas which have been finalised in the Terms of Reference. One area of concern is the river waters dispute between various States. Now, there are various States like Karnataka, Andhra Pradesh, Tamil Nadu as well as Maharashtra where the river water dispute is of a major concern, for which the Central Government has to intervene; various delegations go before the Prime Minister, and the Prime Minister has to intervene. I would like to know from the hon. Minister whether they would like to include this item of river waters dispute in the agenda, so that some way could be worked out through this.

SHRI SHIVRAJ V. PATIL: It is mentioned in the Terms of Reference that this issue also will be discussed by the Commission.

श्रीमती वृंदा कारत : सर, मेरा यह सवाल है कि जहां यह लिखा है –liking Cenral assistance with the performance of the States. अब उसमें एक हिस्सा यह हो सकता है कि जो पैसा केन्द्र की तरफ से प्रदेश को दिया जाता है, उसका युटिलाइज़ेशन कहां तक हो रहा है, यह तो समझ में आता है, लेकिन अभी हम लोग देख रहे है, जैंसे वर्ल्ड बैंक जब हिंदुस्तान को असिस्टेंस देता है, उनकी कुछ शर्तें होती है –किस प्रकार के निजीकरण की ज़रूरत है, किस प्रकार स्ट्रक्चरल ऐडजस्टमंअ पॉलिसीज़ को थोपने की बात है –तो अभी हम लोग देख रहे है कि सेंट्रल असिस्टेंस, जब आप स्टेट्स की परफॉरमेंस के साथ लिंक करने जा रहे है, तो यह शक औरर यह सवाल उठता है कि परफॉरमेंस का अर्थ और परिभाषा क्या है ? क्योंकि परफॉरमेंस का अगर यही अर्थ होगा कि परफार्मेंस पालिसीज प्राइव्वेटाइजेश्न को जिस रुप मे आप आगे लेकर रहे है, तो उसका एक संकेत हमें मिला है अर्बन डेवलपमेंट, अर्बन पॉवर्टी ऐलीविएशन के प्रोग्राम्स में ऐसी कुछ शर्तें लगाई गई है जो स्टेट-सेंट्रल आसिस्टेंस के साथ जुड़ी हुई है, तो मंत्री जी उसका जवाब दें ।

श्री शिवराज वी. पाटिल : सर, यह बहुत अच्छा प्रश्न है और इसके बारे चर्चाएं भी बहुत जगहों पर हुई है। देखने में आया है कि यहां से प्रांत की सरकार को जो धनराशि दी जाती है, तो उसका उपयोग उस काम के लिए होता है या नही, जिस काम के लिए वह देती है। उदाहरण के रूप में मैं बताऊंगा कि पंचायती राज निर्माण हुआ और स्टेट गवर्नमेंट की तरफ से पंचायत को देने के लिए पैसे की कमी है –ऐसा बताया गया, तो यूनियन गवर्नमेंट ने स्टेट गवर्नमेंट को पैसे दिए, मगर जो ग्राम पंचायत को देने के लिए पैसे दिए, वे पैसे भी ग्राम पंचायतों को कुछ स्टेट्स में नहीं दिए गए। उसके बाद पुलिस मॉर्डनाइज़ेशन की स्कीम है। हमने हज़ारों करोड़ों में पैसे निकाल कर रखे और वह पैसा हम देते है। पैसा देने के बाद वह पैसा पुलिस मॉर्डनाइज़ेशन के लिए खर्च नहीं होता और बदकिस्मती से कुछ स्टेट्स में तो एक भी रुपया उसके अंदर खर्च नहीं हुआ है, ऐसी परिस्थिति वहां पर आई है। तो इस हालत में जब एक साल पैसा दिया गया और दूसरे साल अगर वे उसके लिए पैसा मांग रहे है, तो वह पैसा खर्च हुआ है या नहीं हुआ है, यह देखने के लिए कंस्टीटयूशन में कोई प्रोविज़न नहीं है। यह प्रोविजन प्लानिंग कमीशन के द्वारा उपयोग में लाया जाता है। जब प्लानिंग कमीशन में annual plan के लिए मंत्री महोदय वहां आते है, तो उनको पूछा जाता है कि आपने यह पैसा मांगा, हमने आपको दिया, आपने खर्च नहीं किया, फिर क्यों मांग रहे है। उस वक्त यह बात आती है। हमने इसको रूल नहीं बनाया है। हमें इस विषय के ऊपर चर्चा करनी है कि स्टेट की जो financial sovereignty है, उसको कायम रखते हुए, उनकी जो financial responsibility है, उसको कैसे पूरा किया जाए। मेरे ख्याल से सेंट्रल गवर्नमेंट और वर्ल्ड बैंक की तुलना करना उतना दुरुस्त नहीं होगा। सेट्रल गवर्नमेंट और वर्ल्ड बैंक का यह संबंध नही है। यहां स्टेट गवर्नमेट और सेंट्रल गवर्नमेंट का जो संबंध है, वह umbilical cord जैसा है, मां और बच्चे जैसा संबंध है।

श्री सभापति : वे समझ गए है।

पृथक तेलंगाना राज्य का निर्माण

*402. श्री पी. के. माहेश्वरी : क्या गृह मंत्री यह बताने की कृपा करेंगे किः

(क) पृथ तेलंगाना राज्य के निर्माण से देश को क्या विशेष लाभ होने की संभावना है;

(ख) क्या तेलंगाना राज्य के निर्माण के लिए सरकार से अनुरोध किया गया है; और

(ग) सरकार इस संबंध में क्या कदम उठा रही है ?

गृह मंत्री (श्री शिवराज वी. पाटिल) : (क) से (ग) : एक विवरण सदन के पटल पर रखा जाता है।